

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for August 30, 2006 PLANNING COMMISSION MEETING

PROJECT #: Change of Zone #06051 - Lancaster County Zoning Regulations

PROPOSAL: To amend Section 10.009(a) to delete the required wireless application fee, and amend Article 23 to add a fee for an administrative permit.

CONCLUSION: The higher application fee was originally adopted to offset the additional time and resources sometimes required to review wireless facility applications. Since the wireless regulations and associated fees were adopted in 2000, the wireless industry has evolved, including a willingness on the part of wireless carriers to collocate and share common facilities. As a result, staff finds that wireless applications do not require additional time and resources to review compared to other special permits and the fees should be reduced accordingly.

RECOMMENDATION:

Approval

ANALYSIS:

1. The Telecommunications Act of 1996 allowed additional wireless service providers into the marketplace nationwide. Initially, it was typical for each carrier to own all their facilities and not collocate with other carriers. The result was that many towers were being built to accommodate only one carrier's antennas, often times in proximity to existing towers owned by competitors.
2. Lancaster County adopted Title 10 - Personal Wireless Facilities on February 22, 2000. These regulations were very similar to the regulations adopted by the City of Lincoln for the purpose of regulating wireless facilities, including monopoles for cellular telephone antennas. The regulations require that carriers demonstrate the need for new towers, and show why collocation is not feasible to help reduce tower proliferation and maximize the efficiency of existing facilities.
3. Article 10 differentiates among the different types of wireless facilities. New towers are a special permitted use, and other facilities like rooftop-mounted antennas are allowed by administrative permit. Special permits must be approved by the County Board, and administrative permits can be approved by the Planning Director. Administrative permits are comparable to an administrative amendment, another class of permit which is also approved by the Planning Director.

4. In the past, some applications required significantly more staff time and resources to review, at times requiring outside technical assistance. For that reason, the fee for a special permit or administrative permit was set at \$1,000. Staff accounted for all time and resources expended during the review, and the total of those costs were deducted from the \$1,000 fee and the difference was reimbursed to the applicant.
5. Since 2000, the wireless industry has evolved and most major service providers now have national lease agreements with each other to facilitate collocation. The inefficiency of redundant towers has been demonstrated in the market, and all carriers first seek to collocate before proposing to build a new tower.
6. Staff finds that wireless applications no longer require significantly more resources than other special permits to review. The first part of this proposed amendment recommends deleting the section that creates a special \$1,000 fee for wireless facilities. The second part of this amendment recommends defining 'Administrative Permit' in the fee schedule and establishing a \$150 application fee. These changes allow a wireless special permit to be charged the same fee as any other special permit, and establishes a fee for the administrative permit equivalent to the administrative amendment.
7. Similarly, the City of Lincoln previously amended application fees in this manner. If approved, the fee structure for wireless facilities would be the same for Lancaster County as for the City of Lincoln.

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PROPOSED TEXT AMENDMENT TO LANCASTER COUNTY ZONING REGULATIONS

The County/City Planning Department is proposing the following amendments to the Lancaster County Zoning Regulations Section 10.009 and Article 23 relating to wireless facilities.

1. Revise Section 10.009(a) - Application Requirements as follows:

(a) Pre-Application Conference and Fees. Prior to the acceptance of an application by the County, applicants shall participate in a pre-application conference for the purposes of discussing application requirements, specifics of the site, plans for current and future facilities, and establishing the application fee. The purpose of establishing the application fee is to ensure the recovery of County costs and expenses associated with the review of the application including, but not limited to, actual costs of County staff time and resources as well as any outside consultation expenses which the County reasonably determines are necessary to adequately review and analyze the application.

~~In lieu of the requirements of Section 23.009, the application fee shall be a minimum of \$1,000. The County shall apply such fee against all costs associated with its evaluation of any pending application. In the event that total costs are in excess of the fee, the applicant shall, upon notice from the County, pay such costs. In the event that total costs are less than the fee, the County shall refund a portion of the fee to the applicant.~~

2. Revise Article 23 - Fees to include the following section:

Administrative Permit (for wireless facilities). The filing fee for an application for an administrative permit for wireless facilities shall be one hundred fifty dollars (\$150.00).